

1 J. Scott Tiedemann, Bar No. 180456
2 stiedemann@lcwlegal.com

2 Judith S. Islas, Bar No. 117076
3 jislas@lcwlegal.com

3 Jesse J. Maddox, Bar No. 219091
4 jmaddox@lcwlegal.com

4 LIEBERT CASSIDY WHITMORE
5 A Professional Law Corporation
5701 N. West Avenue
6 Fresno, CA 93711

7 Telephone: (559) 256-7800
8 Facsimile: (559) 449-4535
9 E-mail: jmaddox@lcwlegal.com

10 Attorneys for Defendants
11 HAROLD CARTER, RAYMOND LOERA,
12 COUNTY OF IMPERIAL, AND IMPERIAL
13 COUNTY SHERIFF'S DEPARTMENT

14
15 UNITED STATES DISTRICT COURT
16 SOUTHERN DISTRICT OF CALIFORNIA

17 ADRIANA FERNANDEZ,

18 Plaintiff,

19 v.

20 JAMES RAY MORRIS, HAROLD
21 CARTER, RAYMOND LOERA,
22 COUNTY OF IMPERIAL, IMPERIAL
COUNTY SHERIFF'S DEPARTMENT,
and DOES 1-100, inclusive,

Defendants.

Case No. 08 CV 0601 JLS JMA

**DECLARATION OF LIEUTENANT
ROBERT CORTEZ IN SUPPORT OF
DEFENDANTS HAROLD CARTER,
RAYMOND LOERA, COUNTY OF
IMPERIAL, AND IMPERIAL COUNTY
SHERIFF'S DEPARTMENTS MOTION TO
DISMISS**

NO ORAL ARGUMENT REQUIRED

Date: July 10, 2008
Time: 9:00 a.m.
Judge: Magistrate Judge Jan M. Adler
Courtroom: D

I, ROBERT CORTEZ, declare and state as follows:

1. I have personal knowledge of the facts set forth below and if called upon to do so,
I will testify competently to such facts.

2. I am currently employed as a Corrections Lieutenant in the Corrections Division of
the Imperial County Sheriff's Office. I have been employed in the Corrections Division for
approximately 13 years and 5 months and have served as a Corrections Lieutenant for the past

1 two years.

2 3. As a Corrections Lieutenant with the Corrections Division, I work in the Imperial
3 County Jail.

4 4. I am familiar with the Plaintiff, Adriana Fernandez. Ms. Fernandez was an inmate
5 at the Imperial County Jail from March 16 to May 11, 2007. During that time, I was a
6 Corrections Lieutenant and worked at the Jail.

7 5. On March 17, 2007, Ms. Fernandez was assigned to a cell in Module Kilo in the
8 Jail's General Population. Module Kilo houses inmates in an open setting, where they are
9 allowed to freely exit their cells into an open "day room" area from 8:00 a.m. until 10:00 or 11:00
10 p.m.

11 6. On or about April 2, 2007, Ms. Fernandez was placed into a cell in Module Juliet
12 of Administrative Segregation as a result of her aggressive behavior toward others. This Module
13 is used to segregate inmates from the General Population when they become a danger to
14 themselves or others. Inmates in these Modules are not allowed to freely access common areas
15 such as the day room. Movement out of cells is conducted on an individual basis for such
16 activities as showers, recreation, medical appointments, and courts.

17 7. On or about May 11, 2007, Ms. Fernandez was transferred from the Imperial
18 County Jail to another detention facility. She served in the Administrative Segregated Module
19 Juliet from April 2, 2007 until she was released on May 11, 2007.

20 8. I am familiar with the Imperial County Jail's Inmate Grievance Procedure.
21 Inmates at the Imperial County Jail may submit Inmate Grievance Forms regarding any matter
22 involving their custody, medical service, or Jail policies and procedures. Inmate Grievance
23 Forms are pre-printed forms made available by the Imperial County Jail.

24 9. Inmate Grievance Forms are available to Imperial County Jail inmates at all times.
25 For General Population inmates, a stack of Inmate Grievance Forms is ordinarily placed in the
26 common area of a Module and inmates are allowed to take the Forms as they please. If a
27 Correctional Officer observes the Forms being used for purposes other than those intended, a
28 Correctional Officer can remove them from the common area of a Module. However, Grievance

1 Forms remain available to inmates, upon request, at any time. Ms. Fernandez had access to the
2 Grievance Forms during her incarceration in the General Population from March 16 to April 2,
3 2007.

4 10. Inmates in Administrative Segregation also have access to Grievance Forms, upon
5 request from any Correctional Officer. Ms. Fernandez had access to these forms during her
6 incarceration in Module Juliet from April 2, 2007 to May 11, 2007.

7 11. Once an inmate completes a Grievance Form, the inmate must submit the Form to
8 custody staff. The receiving officer must sign and date the grievance and provide a copy to the
9 inmate. Completed grievances are maintained in the inmate's file.

10 12. Resolution of grievances is attempted at the lowest possible level. Therefore,
11 often times, a Correctional Officer attempts resolution of a grievance. If the grievance is not
12 successfully resolved, it goes to a Corporal, then to a Sergeant, and then to a Lieutenant. Most
13 grievances do not progress beyond the Lieutenant level. However, depending on the subject
14 matter or the person(s) identified in a grievance, it can progress beyond a Lieutenant to the
15 Captain, then the Undersheriff, and finally to the Sheriff. Depending on the seriousness of the
16 grievance subject or the person(s) accused of wrongdoing in a grievance, it can be immediately
17 forwarded to a higher level along the chain of command. If inmates are dissatisfied with the
18 proposed resolution, inmates are allowed to appeal to the next highest level.

19 13. Resolution of a grievance cannot include payment of money, but can prompt an
20 investigation or lead to immediate correction of the problem.

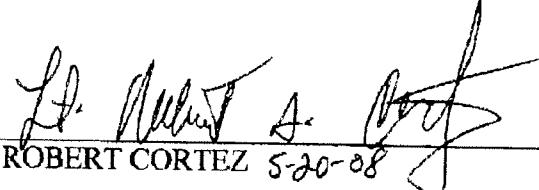
21 14. A claim that a Correctional Officer is sexually harassing, sexually abusing or
22 coercing an inmate to have sex is an appropriate topic for a grievance. A claim that an inmate has
23 been denied treatment when the inmate has exhibited symptoms of syphilis is also an appropriate
24 topic for a grievance. Sexual abuse, battery, false imprisonment, threats, coercion, intimidation,
25 and deprivation of rights are all proper subjects for grievances.

26 15. At no time during her incarceration from March 16 to May 11, 2007 did Ms.
27 Fernandez submit a Grievance Form to the Imperial County Jail regarding misconduct by
28 Correctional Officer James Morris, former Sheriff Harold Carter or Sheriff Raymond Loera, or

1 denial of medical service. To my knowledge, Plaintiff never submitted a completed Inmate
2 Grievance Form to the Imperial County Jail following her transfer to another detention facility.

3 I declare under penalty of perjury under the laws of the United States and the State of
4 California that the foregoing is true and correct. Executed this 20th day of May, 2008, at
5 El Centro, California.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


ROBERT CORTEZ 5-20-08

LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
8033 W. Century Boulevard, Suite 500
Los Angeles, CA 90046